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OMSAPC ADVISORY CIRCULAR

U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF AIR AND WASTE MANAGEMENT

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SUBJECT: Public Access to Applications for Certification

A. Purpose

The purpose of this advisory circular is to provide procedures to facilitate public access to applications for certification (Parts I and II).

B. Background

1. Every year manufacturers of motor vehicles and motor vehicle engines, subject to emission control under the Clean Air Act and the regulations in Part 86 of Title 40 of the Code of Federal Regulations (40 CFR), submit to EPA applications for certificates of conformity with the regulations. These applications contain detailed technical descriptions of the vehicles or engines a manufacturer intends to introduce into commerce, results of emission tests conducted for certification, maintenance instructions, and other data required by EPA to make the determinations required by the certification process. These data often comprise thousands of pages.

2. Under the provisions of the Freedom of Information Act and relevant EPA policy, any person may request and receive from EPA copies of these applications after the manufacturer has received a certificate of conformity, with the exception of certain data which remain trade secrets. In the past, manufacturers have provided copies of their applications (with the trade secrets deleted) to EPA for free distribution to persons requesting them. If such a complimentary copy were unavailable, one of EPA's copies would have to be duplicated and would be provided to the party requesting it with the standard charges for file search and copying. Due to the bulk of the applications, the workload and charges involved would be substantial.

3. By far, the most common source of requests for copies of these applications has been the industry itself. Manufacturers who had provided EPA with complimentary copies of their applications for distribution have complained that this process has worked to their disadvantage since they had to pay for copies of the applications of competitors who had not provided complimentary copies while those competitors could get the complimentary copies without charge. Some manufacturers have therefore decided to no longer provide EPA with complimentary copies and have asked the Office of Mobile Source Air Pollution Control (OMSAPC) to provide a more equitable and efficient means of distribution of copies of applications.



4. Several alternative methods to facilitate access to applications by the public and distribution of copies to persons requesting them have been explored. These included provision of a reference room at the Motor Vehicle Emissions Laboratory in Ann Arbor, Michigan, the EPA library in Washington, D.C. and other locations that would be convenient to the manufacturers and the general public. The major drawback to all of the options involving storage and distribution of printed duplicates of the applications was the bulk of these materials. EPA's resources are simply inadequate to duplicate continuously these materials in response to requests for copies, to store them in a manner that maintains accessibility and to maintain the files in such a manner in multiple locations. Thus it has been decided to use microfiche duplicates of these materials. [Microfiche are 6 inch by 4 inch cards onto which 90 to 100 pages of material can be photo-reduced. These cards can be inexpensively duplicated for use on microfiche readers or they can be used to make new copies on paper in full size.] The services of the National Technical Information Service [hereinafter called NTIS], U.S. Department of Commerce, will be used to produce the microfiche and distribute them.

C. Applicability

The provisions of this advisory circular are applicable to manufacturers of light-duty vehicles, light-duty trucks, heavy-duty engines and motorcycles subject to EPA certification requirements beginning with the 1977 model year.

D. Discussion

1. The procedures set forth in this advisory circular are not mandatory, but manufacturers are encouraged to participate in this program. However, the Mobile Source Air Pollution Control program does have limited resources for specifically providing the services required by the Freedom of Information Act in regard to applications for certification. Consequently, manufacturers whose applications are not available as part of the program set forth in this advisory circular should be aware that requests for their applications will, as a matter of policy, be complied with through the use of EPA staff that are ordinarily assigned to the processing of their applications for certification.

2. To produce a microfiche copy of the applications, NTIS will require the use of a paper copy version of each manufacturer's application for about eight weeks. To minimize the possible disruption to the certification program which would occur if the official documents were used, and to facilitate handling of trade secret data, the simplest procedure is to have each manufacturer provide EPA one copy of his application that would be used exclusively for producing the microfiche. EPA will act as an intermediary between the manufacturers and NTIS.

3. Applications for certification may contain data considered by a manufacturer to be "trade secret" information. While some such information may remain proprietary indefinitely, other information is deemed to be public



information after the vehicle described in the application has been introduced into commerce. EPA's Class Determination 2-77 (Confidentiality of Business Information Submitted in Applications for Light-Duty Vehicle Certifications) sets forth the general instructions for determining what information is considered to be trade secret.^{1/} By and large, most of the data in the application is not deemed to be releasable until after vehicles described therein are available commercially. As a result, applications for certification will not be placed on microfiche until after that time.

4. The application for certification is not a static document. Manufacturers may wish to make changes to their vehicles or engines as the model year progresses and submit "running change" requests to EPA. As running changes are approved, amended pages to the application are inserted to replace the old information. The volume and timing of these changes would make it virtually impossible to economically maintain on microfiche up-to-date copies of most manufacturers' applications either by recopying the entire amended application or by issuing supplements. For this reason, each manufacturer's application originally put on microfiche will not be updated with approved running change data. However, it may be impossible for a manufacturer to include, in the application initially put on microfiche for a particular model year, data on all vehicles ultimately introduced into commerce during that model year. If any additional engine families are certified and sold after the application initially submitted has been put on microfiche, a complete Part I and II application containing data on the engine families not previously reported should be submitted to EPA during the next scheduled period for providing applications for reproduction into microfiche.

5. Not all manufacturers follow the same pattern for designating model years. While some introduce their upcoming model year products in September or October of each year, others introduce their new products in January or February. Waiting until all manufacturers have introduced their products for a particular model year would delay the availability of some data for five or six months. To make the information in the applications available as soon after model introduction as possible, the applications for certification will be submitted and processed into microfiche in two stages. First there will be the "October Group" which consists of those manufacturers who typically introduce their new model year vehicles or engines in the fall. The second set of applications will be submitted by the "March Group" consisting of those manufacturers who introduce new models at the beginning of the calendar year. Each manufacturer is expected to submit a copy of his application in either the October or March group. If data on a new engine family become available after a manufacturer has made his initial submittal for a given model year, these new data should be sent in the form of a complete Part I and II application with the next group, October or March, whichever comes first.

E. Procedures

1. Document Submittal.

a. Those manufacturers who introduce their new models in the fall (the October Group) should submit, between September 15 and October 1 of each year, a single copy of their application for certification prepared in



accordance with paragraph E.2 below, along with a cover letter indicating that the copy of the application enclosed is intended solely for use in producing the microfiche, to the address given below. (Those manufacturers not falling into the October Group should submit their application and cover letter to the same address no earlier than February 15, but no later than, March 1 of each year.)

Director, Certification Division
Motor Vehicle Emission Laboratory
2565 Plymouth Road
Ann Arbor, Michigan 48105

ATTN: Operations Office

b. In some cases, after a manufacturer has made his initial submittal for a particular model year per paragraph E.1.a, he may certify and introduce into commerce vehicles not described in the initial document. If this occurs, the manufacturer should submit a complete application for the new engine family or families with the next group of applications (October or March as appropriate) that will be processed.

2. Document Preparation

a. The copy of the application for certification submitted by a manufacturer for processing into microfiche should contain the most up-to-date information possible at the time it is sent to EPA. Data on all certified families that will be introduced into commerce by October 1 (or March 1 as appropriate) should be included. The application submitted should contain revised pages for all running changes approved by September 1 or February 1 for the October or March groups respectively for the models described in the application.

b. Each manufacturer will be responsible for assuring that trade secret information has been removed from the copy submitted to EPA for duplication on microfiche in accordance with EPA's Class Determination 2-77. EPA will not review any documents to determine if information manufacturers claimed as confidential information has been removed by the manufacturer.

c. Information deleted because of a claim of confidentiality may be mistaken by users as a gap in the application unless some explanation is provided. For this reason, when a manufacturer removes any information from the copy of the application to be put on microfiche, he should identify for the user the data which have been deleted. The manufacturer may do this in either of two ways. He may note at each place in the application data has been withheld the reason for doing so, i.e., because the contents contained trade secret information. Alternatively, the manufacturer may summarize what data deleted in a table or list to be placed directly after the title page of the application. The table or list should be entitled, "Deletions of Data for Reasons of Business Confidentiality" and should contain a description of the type of data deleted and its location within the document.



d. Since producing a microfiche is a duplication process, the better the original the better will be the resulting microfiche copy. To produce good copies at a low cost, the NTIS suggests that the following guidelines be used in the preparation of the documents used to produce microfiche:

1) Pages in each paper copy document should be of uniform paper size, preferably 8 inches by 11 1/2 inches though NTIS can process page sizes up to 9 inches by 12 inches. Oversized pages such as fold-outs of organization charts, computer printouts, etc., should be provided in reduced form.

2) The original should be clean and legible. Photocopies may be used as originals if they are of good quality. Faded type or diagrams may be made legible by filling in with black pen or a sharp pencil. Copies of computer printouts should be checked to be sure they are readable.

3) Use of photographs in copies of applications to be put on microfiche should be avoided whenever possible. They will require special handling to reproduce which will delay processing. A photocopy of original photographs used to prepare the official certification copies is preferred.

4) The pages of the documents submitted should be numbered sequentially.

5) Each document should have a title page for easy identification (e.g., "Ace Motor Company - Application for Certification for 19xx Model Year Light-Duty Vehicles: Part I." A separate title page would then be used for the Part II application.)

3. Document Availability

a. Copies of the applications received for microfiche by EPA will be forwarded to NTIS in Springfield, Virginia for processing. Depending upon the number of pages submitted, NTIS will require six to eight weeks to produce the microfiche from the paper copy originals. When the microfiche have been made, copies of them may be obtained through existing NTIS marketing channels. For information on these marketing channels contact:

Order Processing Department
National Technical Information Service
U.S. Department of Commerce
5285 Port Royal Road
Springfield, Virginia 22161

b. The NTIS, as part of their agreement to produce microfiche copies, retains the right to be the sole commercial distributor of the microfiche. Thus NTIS should be contacted directly if a copy of the microfiche is desired. If a paper copy of a document on microfiche is desired, NTIS has the capability of generating them on demand.



c. A microfiche copy of all the applications for certification submitted by manufacturers and processed by NTIS will be put on file in each of the EPA regional libraries, the main EPA library in Washington, D.C., and the library at the Motor Vehicle Emissions Laboratory in Ann Arbor, Michigan. Desk top readers or reader/copiers are available at all these locations for use by the public during normal working hours.

F. Special Provision for Model Year 1977

Model Year 1977 has progressed to the point where the specific provisions of this circular dealing with time of document submittal no longer apply. Thus, for model year 1977 instead of manufacturers submitting applications in either the October or March group, manufacturers should submit a copy of their application, prepared in accordance with the guidance contained in paragraph E.2, within sixty days of the date of this circular.

Mobile Source Air Pollution Control

- 1/ Copies of the Class Determination may be obtained from the Certification Division, Office of Mobile Source Air Pollution Control, at the address given in paragraph E.1.a.